

ROBERT DAVID BAKER, INC.
Robert David Baker (Bar No. 87314)
1611 The Alameda
San Jose, CA 95126
Telephone: (408) 292-8555
Facsimile: (408) 292-0703

Attorney for Plaintiff

QUINN EMANUEL URQUHART OLIVER & HEDGES, LLP
Scott G. Lawson (Bar No. 174671)
50 California Street, 22nd Floor
San Francisco, CA 94111
Telephone: (415) 875-6600
Facsimile: (415) 875-6700

Attorneys for International Business Machines Corporation



**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

SAM ABOUD,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, JOE SMYTH; JOHN DOE #1;
JOHN DOE #2; DOES 1-48,

Defendants.

Case No.: C04-00017 JW

**STIPULATION AND ~~PROPOSED~~
ORDER MODIFYING SCHEDULING
ORDER**

The parties hereby stipulate to modify the scheduling order in this case as follows:

WHEREAS, the date currently set for exchange of expert-witness information, July 14, 2005, pre-dates the close of fact discovery, September 14, 2005;

WHEREAS, the parties believe that litigation efficiency will be increased by permitting the parties to complete fact discovery prior to exchanging expert-witness information; and

1 WHEREAS, counsel for defendant is scheduled to be out of the country on November
2 21, 2005,

3 IT IS HEREBY STIPULATED AS FOLLOWS:

4 1. Any party wishing to present expert witness testimony with respect to a claim
5 or a defense shall lodge with the Court and serve on all other parties the name, address,
6 qualifications, resume and a written report that complies with Fed. R. Civ. P. 26(a)(2)(B) on
7 or before **September 21, 2005**.

8 2. Any party objecting to the qualifications or proposed testimony of an expert
9 must file, serve and notice a motion to exclude the expert or any portion of the expert's
10 testimony in writing in accordance with Civil Local Rule 7-2, for hearing no later than
11 **November 14, 2005** at 9:00 a.m.

12 3. If the testimony of the expert is intended solely to contradict or rebut opinion
13 testimony on the same subject matter identified by another party, the party proffering a
14 rebuttal expert shall make the disclosures requires by Federal Rule of Civil Procedure
15 26(a)(2)(B) shall occur no later than **October 3, 2005**.

16 4. The Preliminary Pretrial and Trial Setting Conference Statement and Proposed
17 Order shall be filed no later than **November 16, 2005**, and the Preliminary Pretrial and Trial
18 Setting Conference shall occur on **December 5, 2005**.

19 ///

20 ///

21 ///

22

23

24

25

26

27

28

1 The parties respectfully request that the Court adopt the above-referenced schedule,
2 and modify the Court's Scheduling Order, entered October 20, 2004, accordingly.

3
4 ROBERT DAVID BAKER, INC.

5
6 Dated: June __, 2005

7 /s/ Robert David Baker
8 Robert David Baker
9 Attorney for Plaintiff Sam Abboud

10
11 QUINN EMANUEL URQUHART
12 OLIVER & HEDGES, LLP

13
14 Dated: June __, 2005

15 /s/ Scott G. Lawson
16 Scott G. Lawson
17 Attorney for Defendant International
18 Business Machines Corporation

19
20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21
22 Dated: July 07, 2005

23 /s/ James Ware
24 JAMES WARE
25 United States District Judge